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Commissioner

Alexander MacLeod, R.A.
Chairman

Gary Moccia, P.E.
Vice Chairman

Robert Anderson
Administrator

Date: March 9, 2010

Name of Appellant: Shaw's Supermarkets, Inc

Service Address: Walter Yarosh, AIA
Yarosh Associates, Inc.
10 Cape Drive
Mashpee, MA. 02649

In reference to: 1 Boylston Street
Newton, MA. 02467

Docket Number: 10-836

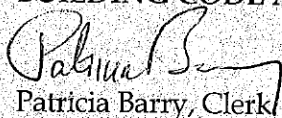
Property Address: 1 Boylston Street
Newton, MA. 02467

Date of Hearing: 01-19-10

Enclosed please find a copy of the decision on the matter aforementioned.

Sincerely:

BUILDING CODE APPEALS BOARD


Patricia Barry, Clerk

cc: Building Code Appeals Board
Building Official

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 10-836**

Yarosh Associates Inc.,)	
Appellant)	
)	
v.)	
)	
City of Newton,)	
Appellee)	
)	

BOARD'S RULING ON APPEAL¹

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to M.G.L. c.143, §100 and 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested an interpretation from the Board of the 6th Edition 780 CMR 1017.4.1 relative to the property at 1 Boylston Street Chestnut Hill, Newton, MA ("Property"). In accordance with M.G.L. c. 30A, §§10 & 11; M.G.L. c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on January 19, 2010 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Discussion

The issue is whether the thumb turn lock installed on exterior egress doors of a mercantile building at the Property is a violation of the Building Code ("Code"). The 6th Edition of the Code, 780 CMR 1017.4.1, requires that, "[a]ll *means of egress* doors shall be readily openable from the side from which egress is to be made without the use of a key or special knowledge or effort." The lock in question is installed on automatic sliding doors which are the main, and only, public exterior egress doors at the Property. In a letter dated December 14, 2009, the Appellee concluded that the thumb turn lock violated the Code, because the lock requires special knowledge or effort to open the doors. Both parties agree that egress through the doors does not require a key. The Appellant provided a photo of the lock and testified that in order to open the doors when the doors are locked, a person

¹This is a concise version of the Board's decision. A full written decision may be requested within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108

must only turn the thumb latch to unlock them and the doors will only be locked when the store is closed. The Chief Building Inspector for the city of Newton, John DeToma, testified that the thumb latch will not turn if a person is pressing or leaning on the door. However, the Board found that the type of lock in question is common and unlocking it does not require special knowledge or effort. Therefore, the Board found that the thumb turn lock installed at the Property is in compliance with 780 CMR 1017.4.1.

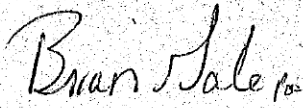
Conclusion

A motion was made by Board Member Jacob Nunnemacher and seconded by Board Member Alexander MacLeod to find that the thumb turn lock installed at the Property complies with the 6th Edition of the Code, 780 CMR 1017.4.1, and to allow use of the lock on the egress doors. A Board vote was taken and the motion **Granted** unanimously.

The Appellee's interpretation of the 6th Edition of 780 CMR 1017.4.1 is hereby Reversed as described in the discussion above and use of the lock in question is allowed.



Jacob Nunnemacher



Brian Gale
Chair



Alexander MacLeod

DATED: March 9, 2010

In accordance with M.G.L. c. 30A, §14, any person aggrieved by this decision may appeal to the Superior Court within 30 days of receipt of notice of this decision.